

In the Matter of Merchant Mariner's Document No. Z-654620
Issued to: WILSON MOSELY

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

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WILSON MOSELY

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations Sec. 137.11-1.

On 17 February, 1953, an Examiner of the United States Coast Guard at San Francisco, California, suspended Merchant Mariner's Document No. Z-654620 issued to Wilson Mosely upon finding him guilty of misconduct based upon two specifications alleging in substance that while serving as Chief Cook on board the American SS HOOSIER STATE under authority of the document above described, on or about 16 October, 1952, while said vessel was in the port of Baytown, Texas, he assaulted and battered the Chief Steward of that vessel, and he failed to turn to and perform his duties without permission.

This appeal urges several reasons for remanding the case to be retried before an Examiner in the Thirteenth Coast Guard District; under other circumstances, I might accede to such request, but, in my opinion, this case does not warrant that action.

The Record is conflicting - and confused. It has been carefully studied and I am utterly at loss to determine who was the aggressor, or the aggrieved in the altercation between Appellant and his superior, the Chief Steward.

No witness in this case appeared before, or was available to the Examiner whose decision is under review. It is unnecessary for me to discuss in this decision the multiplication of procedural errors which occurred in the course of these proceedings.

Suffice it to say, I am not satisfied this Appellant was accorded a fair hearing on the merits. Nor am I satisfied that remand of the case will serve any useful purpose in view of the known circumstances; viz, date and place of alleged offense, date and place of hearing, and the dispersion of material witnesses at the termination of the voyage upon which the vessel was engaged.

ORDER

The Examiner's Order dated San Francisco, California, on 17 February, 1953, is VACATED, SET ASIDE and REVERSED. The charge against this Appellant is
DISMISSED.

Merlin O'Neill
Vice Admiral, United States Coast Guard
Commandant

Dated at Washington, D. C., this 1st day of June, 1953.